

**MINUTES**

**MONTANA SENATE  
58th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON LOCAL GOVERNMENT**

**Call to Order:** By **CHAIRMAN JOHN C. BOHLINGER**, on March 6, 2003  
at 3:02 P.M., in Room 335 Capitol.

**ROLL CALL**

**Members Present:**

Sen. John C. Bohlinger, Chairman (R)  
Sen. John Esp, Vice Chairman (R)  
Sen. Jerry W. Black (R)  
Sen. Brent R. Cromley (D)  
Sen. Jim Elliott (D)  
Sen. Kelly Gebhardt (R)  
Sen. Bill Glaser (R)  
Sen. Rick Laible (R)  
Sen. Jeff Mangan (D)  
Sen. Carolyn Squires (D)  
Sen. Mike Wheat (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Leanne Kurtz, Legislative Branch  
Phoebe Olson, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: HB 142, 2/25/2003; HB 264,  
2/25/2003; HB 408, 2/25/2003; HB  
511, 2/25/2003  
Executive Action: HB 142; HB 408; HB 511

**HEARING ON HB 511**

**Sponsor:** REPRESENTATIVE GEORGE EVERETT, HD 84 Kalispell

**Proponents:**

Linda Stoll, MT Association of Planners  
Brad Griffin, Flathead Business and Industry Association  
Peggy Trenk, MT Association of Realtors  
Harold Blattie, MT Association of Counties  
Mona Jamison, Gallatin County  
Tammy McGill, Stillwater Co.  
Elaine Sliter, Anderson and Baker  
Ann Hedges, MT Environmental Information Center

**Opponents:**

None

**Opening Statement by Sponsor:**

**REPRESENTATIVE GEORGE EVERETT, HD 84 Kalispell** explained what the bill would do. He said the bill was needed by local counties and cities that were still revising their master plans do to unforeseen population growth. They needed an opportunity for increased economic activity. There was also a need for expansion of services throughout the counties, and future development of new jobs. He thought it was better to provide an extension so that growth policy would be done right.

**Proponents' Testimony:**

**Linda Stoll, MT Association of Planners** said the bill was short simple and easy to understand, and they were in support of it 100%.

**Brad Griffin, Flathead Business and Industry Association** said they hoped the bill would pass through the Senate very quickly.

**Peggy Trenk, MT Association of Realtors** said they were in support of the bill. She said growth plans were important and should be approached thoughtfully and carefully and having to rush based on a time line would not help.

**Harold Blattie, MT Association of Counties** said they were in support of the bill. He maintained counties were struggling to get these done and desperately needed time. He said he would be available for questions.

**Mona Jamison, Gallatin County** said they were in support of the bill. They thought it was reasonable and made good sense, and she urged the committee's support.

**Tammy McGill, Stillwater County** said her county was small but very fast growing. She said the extension of time would be greatly appreciated. She said it would allow her to update her subdivision regulations to keep up with state statute. She encouraged their support.

**Elaine Sliter, Anderson and Baker** said they were in support of the bill. She said Ann Hedges from the Montana Environmental Information Center wanted to be on record in support of the bill.

**Opponents' Testimony:**

None

**Questions from Committee Members and Responses:**

**SENATOR CAROLYN SQUIRES** asked if there were any dramatic changes concerning annexation she should pay attention to.

**REPRESENTATIVE EVERETT** said as far as he knew it just allows you to go back to the original master plan and use that process.

**SENATOR JOHN ESP** said they had passed a bill out of the Senate that said a growth policy was a master plan or a comprehensive plan. If that passed the house would this be as relevant.

**REPRESENTATIVE EVERETT** said no. He said this was mainly to move the date incase the other bill did not get out of hearings.

**Closing by Sponsor:**

**REPRESENTATIVE EVERETT** thanked the proponents. He said it just moved the date out five years. He said at a time when they were trying to encourage economic growth they could not afford not to have small projects in the community.

**HEARING ON HB 264**

**Sponsor:** **REPRESENTATIVE CAROL GIBSON, HD 20, Billings**

**Proponents:**

**Harold Blattie, MT Association of Counties**  
**Donna Sevalstad, Beaverhead County**

**Opponents:**

None

**Opening Statement by Sponsor:**

**REPRESENTATIVE CAROL GIBSON, HD 20, Billings** said the bill was suggested by the counties and had to do with elected officials of county government who on few occasions have not followed personnel policy. Out of that sometimes comes a situation where what is being asked of employees is different than what is in county policy. She said that occasionally caused problems and sometimes lawsuits. She said the sheriff department had some problems with the bill at first, but their concerns were taken care of. She allowed the people to testify at that time.

**Proponents' Testimony:**

**Harold Blattie, MT Association of Counties** said the bill did originate in Yellowstone County. He explained that situation. He said the bill was intended to say that other elected officials need to use a properly adopted personnel policy in the supervision of their staff. Unfortunately some folks were reading into that, that as elected officials they were also subject to the policy and that was not the intention. He thought the amendments put on in the House resolve that. He said it was imperative that all employees were subject to a personnel policy that has been approved by the governing body. He said he would be available for questions.

**Donna Sevalstad, Beaverhead County** said she had not planned to testify on this bill but couldn't help her self. She said they had a situation in their county that this bill would solve so she urged their support.

**Opponents' Testimony:**

None

**Questions from Committee Members and Responses:**

**SENATOR BRENT CROMLEY** said he did not understand if the sheriffs were in or out.

**REPRESENTATIVE GIBSON** said the sheriffs opposed the bill, and after some amendments they endorsed it.

**SENATOR CROMLEY** asked when that was done.

**REPRESENTATIVE GIBSON** said that was done before it went to the House.

**SENATOR CROMLEY** said there was some reference made in testimony that if you were from Yellowstone County you would know the problem. He maintained he did not know what had prompted the bill.

**REPRESENTATIVE GIBSON** said there had been occasions in Yellowstone County where they had not followed personnel policy.

**SENATOR RICK LAIBLE** asked what sort of things would take place that you would try to control.

**Donna Sevalstad** said they had a non-qualified elected official that wasn't doing the job, so that forced the commissioners to take duties out of that office. She said the official then hired someone in the office without the budget to do so.

**SENATOR LAIBLE** said so this bill as written would prevent an elected official from hiring additional staff when they felt it was necessary if in fact the governing bodies felt it wasn't necessary.

**Donna Sevalstad** said she hadn't advertised when she hired the person and there was no budget to hire the person, and they were now in the process of having the county attorney let the person go. The person was not happy because they thought they had a job. She reiterated that personnel policy was not followed when this person was hired.

**SENATOR SQUIRES** asked about the sheriffs deputies wanting to be out, does it make a difference in this bill.

**Harold Blattie** replied yes that was existing language. He said language was put in with the amendment to address the concerns of the sheriffs and peace officers.

**SENATOR SQUIRES** asked on line two what the word "officers" meant.

**Leanne Kurtz** said that meant elected county officials.

**SENATOR LAIBLE** asked if officers would be elected officials.

**Leanne Kurtz** referenced line 13, "all county officers and officers of all districts and other subdivisions of the county charged with assessing, collecting, safekeeping, managing or disbursing public revenue." She said she may have mis-spoke before it would be all county officers not just elected.

**SENATOR LAIBLE** asked if that would include a clerk and recorder.

**Leanne Kurtz** replied that was right.

**SENATOR JOHN ESP** made the observation that it would be county officers that deal with money, not all officers.

**Closing by Sponsor:**

**REPRESENTATIVE GIBSON** said there you have it. She said she had not found anyone to carry the bill. She thanked the committee for a good hearing. She thought this would help the counties avoid some problems.

**HEARING ON HB 408**

**Sponsor:** **REPRESENTATIVE JIM PETERSON, HD 94, Buffalo**

**Proponents:**

**Harold Blattie, MT Association of Counties**

**Opponents:**

None

**Opening Statement by Sponsor:**

**REPRESENTATIVE JIM PETERSON, HD 94, Buffalo** submitted his talking points. **EXHIBIT**(los47a01)

**Proponents' Testimony:**

**Harold Blattie, MT Association of Counties** thanked the Representative for bringing the bill to the legislature. He said he did a thorough and complete job of explaining it. He made himself available for questions.

**Opponents' Testimony:**

None

**Questions from Committee Members and Responses:**

**SENATOR JEFF MANGAN** asked if a county employee was doing this as part of his or her job description, why would the county need to be reimbursed.

**Harold Blattie** replied it should not be part of their job description. He said it was an agreement made with the Department of Health and Human Services with an individual without participation of the county.

**SENATOR MANGAN** said he understood that, but it didn't sound like the practice would change except the county would get the money instead of the individual.

**Harold Blattie** said yes they would be doing that during time that they are being paid for their regular job, so it is a reimbursement to the county because the county is paying their salary.

*{Tape: 1; Side: B}*

**Closing by Sponsor:**

**REPRESENTATIVE PETERSON** thanked the committee for a good hearing. He thought it was a simple bill. He hoped someone would volunteer to carry the bill on the floor.

**HEARING ON HB 142**

**Sponsor:** **REPRESENTATIVE RONALD DEVLIN, HD 3, Terry**

**Proponents:**

**Daniel Watson, Rosebud County**  
**Donna Sevalstad, Beaverhead County**  
**Willie Duffield, MACO**  
**Ron Alles, Lewis and Clark County**  
**Aidan Myhre, MT Dakota Utilities**  
**Janet Ellis, MT Audubon**  
**John Youngberg, MT Farm Bureau**  
**Peggy Trenk, MT Association of Realtors**

**Opponents:**

None

**Opening Statement by Sponsor:**

**REPRESENTATIVE RONALD DEVLIN, HD 3, Terry** said this was brought to him by MACO and it dealt with the counties role in preparing and environmental document. He said the counties felt they were left outside the loop on this. He said the only part they were

able to take in the process was to write letters and of course make comments during the public comment period. This bill was drafted in an effort to give counties more standing in the process. This bill requires the agency doing an environmental document to notify the counties that are directly impacted. The county would then be invited to be a part of the scoping process of preparing the environmental document. He said the House had also defined local government. He said they also limited to entities that it had a direct impact on. He reserved the right to close.

**Proponents' Testimony:**

**Daniel Watson, Rosebud County** read from the MACO resolution that prompted this bill. **EXHIBIT (los47a02)** He wanted to thank Representative Devlin on the record for carrying the bill for them.

**Donna Sevalstad, Beaverhead County** said if this bill passed it would give them the opportunity to be notified and to participate, and the deciding officer would have to give due consideration to their comments. She maintained they could not stop projects with this bill, but they would be notified and their comments would be taken into consideration. She urged the committees support.

**Willie Duffield, Montana Association of Oil, Gas, and Coal Counties** said they had passed a resolution in their association similar to the one MACO had passed. He said this was a simple bill that allowed them to participate. He hoped the commissioners could provide input during the process that might alleviate some of the hangups that come during the comment period, and speed up the process. He hoped they could support HB 142.

**Ron Alles, Lewis and Clark County** said this bill made sense. He hoped they would vote in favor of it.

**Aidan Myhre, MT Dakota Utilities** rose in support of the bill, and appreciated the efforts of the sponsor.

**Janet Ellis, MT Audubon** said this bill would improve communications between local governments and the state agencies when something significant was going to happen to the environment. She asked that they please support the bill.

**John Youngberg, MT Farm Bureau** said they were in support of the bill.



**Peggy Trenk, MT Association of Realtors** said they were in support of the bill. She said particularly when it came to social and economic issues, local governments have their pulse on what needs to happen. She believed this could make a big difference and was a very good idea. She urged the committee's support.

**Opponents' Testimony:**

None

**Questions from Committee Members and Responses:**

**SENATOR ESP** said on line 15, he did not think it was appropriate to be in front of local government, he thought it should say with any local government, other state agency or federal agency or something to that effect. He asked the sponsor if the had discussion on that in the house committee.

**REPRESENTATIVE DEVLIN** replied yes. He said it did not effect the agency. He pointed out section 1 subsection 1, 2, and 3.

**SENATOR MANGAN** said "directly" was added. He wondered who determined the direct impact, the local agency or the state official.

**REPRESENTATIVE DEVLIN** said it was his understanding that since this was directed at the agency involved with the environmental document they would take a look at the project and decide whether a local government would be directly impacted by it.

**SENATOR MANGAN** asked what happened if the local government felt there was a direct impact and the state official believed there was not.

**REPRESENTATIVE DEVLIN** said the whole process is very public, if there is a project going on. What this bill does is require the agency to contact those counties. It does not eliminate the other counties from having the ability to participate in the process.

**SENATOR MANGAN** said not necessarily. If the state official makes the decision that a county is not directly effected, but they feel they are, what is the regress.

**REPRESENTATIVE DEVLIN** said this was DEQ's practice at the present time, but they are not required by law. He said now they would be statutorily mandated to contact those counties. He stressed that it did not diminish what they have now. The idea was that when a determination was made that a jurisdiction would be directly

impacted, there level of standing in the process would be elevated.

**Closing by Sponsor:**

**REPRESENTATIVE DEVLIN** thanked the committee. He thought the questions took care of most of what he wanted to close with. He said he encouraged them to have the staffer go over statue 75-1-104, and maybe explain that better.

**EXECUTIVE ACTION ON HB 511**

**Motion/Vote:** SEN. LAIBLE moved that HB 511 BE CONCURRED IN.  
Motion carried unanimously.

**EXECUTIVE ACTION ON HB 408**

**Motion:** SEN. LAIBLE moved that HB 408 BE CONCURRED IN.

**Discussion:**

**SENATOR SQUIRES** said then DPHHS would not pay anyone any money, it would go to the county coffers, is that the deal.

**SENATOR ESP** said if the person they appoint works for the county, the money would go to the county, if the person they appoint is a private individual it would probably still go them, if they work for some other institution it would go to the institution they work for.

**SENATOR MANGAN** pointed out in 3A and 3B the county creditor would be reimbursing the department in which the local registrar is employed.

**SENATOR ESP** asked if agreed with Senator Mangan.

**Harold Blattie** said it was county money to start with. He wanted to make sure that was clear.

**SENATOR SQUIRES** asked where DPHHS fell in the bill then.

**Harold Blattie** said that DPHHS was the agency that was responsible for appointing the individual as a local registrar. They do not provide the money.

**Vote:** Motion carried unanimously.

**EXECUTIVE ACTION ON HB 264**

**Motion:** SEN. MANGAN moved that HB 264 BE CONCURRED IN.

**Discussion:**

**SENATOR LAIBLE** said that before he took action on this bill he wanted to talk to his clerk and recorder.

**SENATOR MANGAN** withdrew his motion.

**EXECUTIVE ACTION ON HB 142**

**Motion:** SEN. ELLIOTT moved that HB 142 BE CONCURRED IN.

**SENATOR ESP** said they were working on an amendment and were not ready to act on the bill.

**SENATOR ELLIOTT** withdrew his motion.

**Motion:** SEN. ESP moved that HB 142 BE CONCURRED IN.

**SENATOR ESP** explained his amendment would have line 15 read, "coordinate or consult with any impacted local government, or other state agency, or federal agency; or"

**SENATOR SQUIRES** said he wanted DEQ to report to any effected area.

**SENATOR ESP** said he did not like having other in front of local government and in the definition they talk about impacted local government so by putting impacted in front of local government it clearly associates it with the local government definition in the other section of the bill.

**SENATOR ELLIOTT** said there had to be a prima facie assumption that the local government was impacted. How would the local government going to know it was impacted unless it was consulted with before hand.

**SENATOR ESP** said as he understood this bill, this section can effect specific statutory obligations of any agency of the state to consult with these entities. He said they were putting a statutory obligation in on page 3 line 24 - 27.

**{Tape: 2; Side: A}**

**SENATOR MANGAN** said this went back to his discussion with Representative Devlin on directly impacted versus impacted because obviously they put that in there for a reason. He thought you would either have to have the same language in you amendment, directly impacted and not just impacted because there was obviously a reason for it to be there.

**SENATOR CROMLEY** said he agreed with the amendment in regards to the word "other" but he did not think the needed the word "impact" in there.

**SENATOR ESP** asked **Senator Wheat** if he agreed with the analysis.

**SENATOR WHEAT** replied he thought he did.

**SENATOR ESP** withdrew his motion for an amendment.

**Motion:** **SENATOR ESP** made a motion that the sentence read "coordinate or consult with any local government, other state agency, or federal agency;".

**Vote:** Motion carried unanimously.

**Motion/Vote:** SEN. ESP moved that HB 142 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

**ADJOURNMENT**

Adjournment: 4:11 P.M.

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SEN. JOHN C. BOHLINGER, Chairman

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PHOEBE OLSON, Secretary

JB/PO

**EXHIBIT (los47aad)**